

Planning and Zoning Commission Meeting

Minutes of April 4, 2007

Work Session (1st Floor; Public Works) – 4:00 PM

The Commission and staff reviewed the agenda and discussed the steep slopes wording amendment. Mr. Shuford distributed two articles on affordable housing.

Regular Session (1st Floor; Public Works) – 5:00 PM

Call to Order: Chairman Byers called the meeting to order at 5:01 PM.

Attendance:

Members Present:
Tom Byers, Chair
Steve Sizemore, Vice-Chair
Buzzy Cannady
Darryl Hart
Jerome Jones
Cindy Weeks
David Young

Member(s) Absent:
None

Mr. Byers called for action on the minutes of March 7, 2007 and March 22, 2007. He noted an adjustment needed on the first page of the minutes of March 7. A motion by Mr. Cannady to approve both sets of minutes with the indicated change was seconded by Mr. Sizemore; the motion was approved unanimously (7-0).

Mr. Byers reviewed the agenda and the public hearing procedures.

Agenda Item	
<u>Level III site plan for the project identified as Biltmore Lake, Blocks D2-E, located on Enka Lake Road. The development will include 103 residential units. The owner is Biltmore Lake, LLC and the contact is Will Buie. The properties are identified in the Buncombe County tax records as PINs 9616.01-19-5972, 9616.01-18-6804, 9616.01-08-7627, 8342, and 9336.</u>	
Staff Comments	Nate Pennington oriented the Commission and audience to the site location and provided the staff report. He answered a Commission question regarding the timing of gate closing.
Public Hearing Opened	5:10 PM
Applicant(s)/Applicant Representative(s)	Will Buie, applicant's representative, provided a brief presentation about the project. He noted that the gate operation would ultimately be determined by the homeowners

	association.
Public Comments	
None	
Public Hearing Closed	5:12 PM
Commission Action	
Mr. Cannady moved to recommend approval of the project. Mr. Jones seconded the motion. Mr. Sizemore raised a question about emergency vehicle access. The motion passed unanimously (7-0).	

Agenda Item	
Consideration of the Conditional Zoning request for the project identified as Grimes and Teich Parking Lot, located on Wynne Street. The conditional zoning request seeks the rezoning from RS8 (Residential Single-Family, Low Density) district to CBD CZ (Central Business District Conditional Zoning) for an additional parking area for the existing business. The owner is Henry Teich and the contact is Michael Figura. The property is identified in the Buncombe County tax records as PIN 9649.19-71-2583.	
Staff Comments	Julie Cogburn oriented the Commission and audience to the site location and provided the staff report. She noted an approval from the Traffic Engineer for a 20 foot wide travel aisle. She answered a question concerning the landscape buffer.
Public Hearing Opened	5:15 PM
Applicant(s)/Applicant Representative(s)	Michael Figura, applicant's representative, agreed with the staff recommendation. He noted that a neighborhood meeting was held but was not attended by any neighbors.
Public Comments	
None	
Public Hearing Closed	5:16 PM
Commission Action	
Mr. Jones moved to recommend approval of the project. Mr. Sizemore seconded the motion. The motion passed unanimously (7-0).	

Agenda Item	
Amendment to the Conditional Zoning approval for CI CZ (Commercial Industrial Conditional Zoning) to allow for additional uses for the project located at 103 N. Bear Creek Road. The amendment seeks the approval to allow for the use as a private K-12 school, in addition to child care center. The owner is Greland, LLC and the contact is Ken Huck. The property is identified in the Buncombe County tax records as PIN 9628.10-46-7726.	
Staff Comments	Julie Cogburn oriented the Commission and audience to the site location and provided the staff report.
Public Hearing Opened	5:21 PM
Applicant(s)/Applicant Representative(s)	Gerald Green applicant's representative, agreed with the staff recommendation.

Public Comments	
None	
Public Hearing Closed	5:22 PM
Commission Action	
Ms. Weeks moved to recommend approval of the project. Mr. Cannady seconded the motion. The motion passed unanimously (7-0).	

Agenda Item	
<u>Request to rezone an area including properties located around 1200 Bleachery Boulevard from RS 8 (Residential Single Family High Density) district to CB I (Community Business I) district. The property owners are Harley D., LLC, Bob J., LLC and Steve H., LLC, and the contact is Steve Haney. The properties are identified as PINs 9657.07-69-0637, 59.8784, & 59-9382.</u>	
Staff Comments	Blake Esselstyn oriented the Commission and audience to the site location and provided the staff report.
Public Hearing Opened	5:25 PM
Applicant(s)/Applicant Representative(s)	Harley Dunn, applicant, described the project and answered a Commission question about the possible uses.
Public Comments	
None	
Public Hearing Closed	5:27 PM
Commission Comments/Discussion	
There was Commission questions about density. It was determined that the proposed zoning allowed 16 units per acre.	
Commission Action	
Mr. Cannady moved to recommend approval of the rezoning. Mr. Hart seconded the motion. The motion was approved unanimously (7-0).	

Agenda Item	
<u>Request to rezone properties located at 100, 105, 108 1/2, 115, and 9999 Fairview Road (30+/- acres and known as Whitaker Hill from CI (Commercial Industrial) district and RM8 (Residential Multifamily, Low Density) district and RM 16 CZ (Residential Multi Family Conditional Zoning) district to UV (Urban Village) district for review of the conceptual master plan for development to consist of residential and commercial uses. The owners are BLT Enterprises, Charles Saylor, James & Jaye Lytle, Robertsons' Daughters, LLC and Asheville Commons, LLC and the contact is Chris Cole. The properties are identified in the Buncombe County tax records as PINs 9648.20-80-7204, 9647.08-89-9932, 9648.20-90-1200, 9647.08-99-4366 & 9647.08-89-9364.</u>	
Staff Comments	Alan Glines oriented the Commission and audience to the site location and provided the staff report. He answered Commission questions concerning construction time period and reversion to existing zoning.

Public Hearing Opened	5:39 PM
Applicant(s)/Applicant Representative(s)	Chris Cole, applicant, briefly described the project and answered questions about affordability and Stoner Road access.
Public Comments	
Speaker Name(s)	Issue(s)
Elaine Lite	<ul style="list-style-type: none"> • Scale • Density • Traffic • Access
Dr. Kelly Ivers, neighboring property owner	<ul style="list-style-type: none"> • Location of access point to project from her street
Heather Rayburn	<ul style="list-style-type: none"> • Lost tree cover • Green building
Public Hearing Closed	6:03 PM
Commission Comments/Discussion	
Alan Glines described the review process – TRC, P&Z, City Council considers the concept plan and then TRC reviews the final plan for full technical compliance. It is an approach that balances “political” approval with applicant expenses for technical expertise. Commission members discussed the Stoner Road access and traffic calming requirements, project density, green building, and general traffic impact.	
Commission Action	
Ms. Weeks noted that this appeared to be an excellent infill opportunity and moved to recommend approval of the rezoning and master plan. Mr. Jones seconded the motion. The motion passed unanimously (7-0).	

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding Changes to the River District.

Mr. Shuford noted an error in describing the proposed ordinance amendment and recommended continuance to the May 2, 2007 meeting. Mr. Jones moved to continue to May 2, 2007; his motion was seconded by Mr. Young and carried unanimously (7-0).

Reconsideration of the ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding Adjustments to Enforcement Procedures.

Shannon Tuch reviewed the proposed ordinance amendment and answered Commission questions about the proposed fine table. Mr. Byers opened and closed the public hearing at 6:08 PM as there was no comment. Ms. Weeks moved to recommend approval. MR. Sizemore seconded the motion. The motion passed unanimously (7-0)

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding Steep Slope and Ridgetop Overlay District

Scott Shuford provided a presentation on the proposed steep slope and ridgetop ordinance, describing the changes since the September draft. He noted the remaining issue of significance was where to apply the steep slope requirements and provided photographs showing the effect of two alternatives. He answered questions about the effect of moving to a 25% slope requirement and the basis for the 2,220 foot standard in the current “hillside” requirements. Mr. Byers opened the public hearing at 6:43 PM. The following persons spoke:

Speaker Name(s)	Issue(s)
Paul Szurek	Expressed concern about the effects of retaining the 2,220 foot elevation requirement. Recommended a 2,500 foot elevation and 25% slope alternative.
Mike Butrum (representing Board of Realtors and Homebuilders Association)	Agreed with Mr. Szurek’s recommendation.
Gerald Green	Noted concern about the 25% slope below 2,220 foot requirement on specific infill sites.
Jake Quinn, representing Grove Park/Sunset Mountain Association	<ul style="list-style-type: none">• Disagreed with any increased in elevation requirements• Preferred lower threshold for geotechnical analysis
Janet Betke	Recommended staying with 2,220 foot threshold.
Elaine Lite	Recommended “strongest possible ordinance.”
Barber Melton	Recommended staying with 2,220 foot and 15% thresholds.
Heather Rayburn	Expressed concern about “name-calling” by various groups.
Bob Jolly	Expressed property rights concerns.
Tom Williamson	Agreed with Mr. Szurek’s recommendation and provided additional rationale.

Chairman Byers closed the public hearing at 7:14 PM. There was Commission discussion of the various options for establishing a steep slopes threshold, and how development was regulated during and after construction.

Mr. Sizemore and Ms. Weeks noted the extensive analysis of the issue by the Commission and staff. There was much discussion about the advantages of the 2,500 foot elevation and 25% slope thresholds. Mr. Byers and Mr. Young expressed some concern over the viewshed impact of that alternative. The geotechnical analysis threshold seemed to be consistent with technical information from the NC Geological Survey. Mr. Sizemore expressed a concern about the availability of infrastructure to support development.

Ms. Weeks moved to recommend approval of the ordinance with the 2,500 foot elevation and 25% slope thresholds. The motion was seconded by Mr. Sizemore and carried by a 6-1 vote (Byers opposed).

Secretary's note: The Commission discussion and vote created considerable tension among persons in the meeting room.

Ordinances amending Chapter 7 of the Code of Ordinances of the City
Asheville regarding Retaining Wall Regulation

Mr. Shuford presented the staff report. In response to a Commission question about the general effect of development, he opined the following:

- Asheville's past development practices would be considered appalling today but resulted in many of the wonderful areas we so appreciate today such as the Kenilworth neighborhood which was clearcut/logged prior to road and home construction.
- The development process is complex, and, as anyone who has ever remodeled their home can attest, field changes do occur and have to be accommodated.
- Staff does an excellent job of monitoring development during construction but citizen expectations may be unrealistically high, such as the photographs recently sent to us by an angry citizen of a normally functioning silt fence.
- The current level of development in the City, along with annexation, has resulted in the City starting to overcome a decades-long revenue crunch to the extent that some Council members are even discussing tax reductions without having to impact service delivery.
- We are a community that thrives on conflict. This community enjoys coming to meetings to the extent that some people's social life revolves around coming to meetings. This level of community interest is generally a good thing but can magnify things in a highly emotional fashion, making it hard to reach balanced decisions.

Mr. Byers opened the public hearing at 8:04 PM.

Speaker Name(s)	Issue(s)
Heather Rayburn	Took exception to Mr. Shuford's comments, especially the "social life" one. Requested the minutes reflect the comments. Indicated an intent to file an AICP ethics complaint against Mr. Shuford about the comment.
Jake Quinn	<ul style="list-style-type: none">• Noted that the longer the Commission discussed an ordinance, the less stringent the requirements became.• Felt Mr. James Wood's comments described in the staff report and included as part of the agenda packet were not adequately addressed.
Elaine Lite	Expressed disappointment in the prior vote- concern over a history of votes falling in favor of developers.

Ms. Weeks noted that most of the comments had little to do with the agenda item under consideration. Mr. Hart noted that the Commission had spent months of thoughtful consideration of the steep slopes ordinance before coming to its decision. Mr. Sizemore noted that the members of the Commission work hard before deciding and that they all have a stake in what happens in the community. Mr. Young brought up the subject of terracing retaining walls to reduce their impact. After some consideration, the Commission recommended adding the following language to the ordinance:

Terracing of retaining walls is allowed and encouraged; provided that no single retaining wall shall exceed 20 feet in height and each successive wall shall be setback at least five feet from the face of the lower wall. The application of foreground landscaping or attached vegetative screening shall be based on the cumulative height of the terraced walls except that a one level reduction in required landscaping from the following table shall be allowed.

Mr. Sizemore moved to recommend approval of the ordinance as modified above. Mr. Jones seconded the motion and it carried unanimously.

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding New Requirements for Use and Dimensional Non-Conformities.

Scott Shuford presented the wording amendment staff report, noting that it was referred back to the Commission by Council to allow consideration of changes proposed by CAN member James Judd on the day of the Council meeting at which the ordinance was to be considered. Mr. Shuford described Mr. Judd's suggestions and indicated if and how they were accommodated in the revised version before the Commission. Mr. Byers opened and closed the public hearing at 8:44 PM as there was no comment. Mr. Jones moved to recommend approval. Mr. Sizemore seconded the motion which carried unanimously (7-0).

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding Changes to Temporary Uses.

Shannon Tuch presented the wording amendment staff report. She and Mr. Oast answered Commission questions regarding formatting and junk vehicles. Mr. Byers opened and closed the public hearing at 8:50 PM as there was no comment. Ms. Weeks moved to recommend approval of the item; the motion was seconded by Mr. Jones and carried unanimously (7-0).

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville regarding Creating New Standards for Gated Communities.

Shannon Tuch presented the wording amendment staff report. She and Mr. Oast answered Commission questions regarding connectivity, definition of “natural and cultural significance,” perpetual maintenance, and how gated might be removed upon public dedication and acceptance of streets. Mr. Byers opened the public hearing at 9:02 PM. Elaine Lite asked if the Council could prohibit gates regardless of whether the conditional use permit standards were met. Mr. Byers closed the public hearing at 9:04 PM. After considerable Commission discussion about the policy implications of the ordinance and how “legislative discretion” could be accommodated, Ms. Weeks moved continue the item until May 2, 2007. Mr. Byers asked if Ms. Weeks would add to her motion language to the effect that the City generally discourages gated communities; the amendment was not supported by the maker of the motion. The motion was seconded by Mr. Sizemore and carried unanimously (7-0).

Staff coordinating review – Scott Shuford Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville to Establish New Level III Review Exemption and Threshold Adjustments.

Scott Shuford provided a presentation on the proposed ordinance, noting that it was a long-time suggestion of the Council and had been put on hold at CAN’s request prior to the last election. He further noted the extensive discussion by the three Council members comprising the Planning and Economic Development Committee prior to the ordinance being brought forward for Commission consideration. Mr. Byers opened the public hearing at 9:26 PM. Barber Melton stated that CAN could not support any threshold increases for Level III projects because of a desire to have public input at the Council level. Mr. Byers closed the public hearing at 9:28 PM. Mr. Sizemore expressed a concern about the size of the “carrot” being offered in the ordinance; were we being too generous? Ms. Weeks noted that the Level III projects were all properly zoned for their use so they would still conform to the underlying zoning. She liked how important City goals were being advanced. Mr. Hart moved to continue the item to the May 2, 2007 meeting; Mr. Cannady seconded the motion. The motion passed unanimously (7-0).

Ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville to Provide for Cottage Developments as a Use by Right Subject to Special Requirements in all Residential Zoning Districts.

Scott Shuford provided a presentation on the proposed ordinance answering Commission questions about density and quality of construction. Mr. Byers opened and closed the public hearing at 9:48 PM as there was no comment. After Commission discussion about neighborhood compatibility and infill opportunities, Mr. Cannady moved to continue the item until May 2, 2007; the motion was seconded by Mr. Hart and carried unanimously (7-0).

Other Business

Mr. Shuford asked the Commission’s preference of when to take up the Merrimon Avenue zoning changes. The Commission indicated a preference of May 2, 2007.

The Commission meeting was adjourned by consent at 9:55 PM.